

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

QWEST CORPORATION,

Plaintiff,

vs.

CIV 10-0617 RB/KBM

CITY OF SANTA FE,

Defendant.

ORDER REGARDING INTERROGATORY 2-12

THIS MATTER is before the Court following its review of the parties' briefs (Docs. 119 & 121) regarding Defendant's Interrogatory 2-12 and the sufficiency of Plaintiff's response. Discovery thus far has been somewhat contentious, and having been given the ongoing correspondence of the attorneys, I am very familiar with the issues that have been raised throughout this process in this complex matter.

As an initial matter, I commend the attorneys for their perseverance in attempting to reach agreements on disputed discovery issues. And where such specific and unambiguous agreements have been reached, they should control. That is precisely the issue here - whether Qwest should be required to comply with its agreement regarding its expert's report as stated at the October 25, 2011 conference? I hold that Plaintiff should abide by its clear agreement.

Wherefore,

IT IS HEREBY ORDERED that Qwest shall provide Dr. Fitzsimmons' Supplemental Report including the specific language that he "did not actively consult any of the [Bates Numbered documents referenced in Qwest's October 3, 2011 letter] in formulating his

declaration and Initial Report” and providing the underlying calculation for the four dollar figures cited on Page 7 (lines 25 and 26) of his Initial Report, including an attachment containing supporting documents and necessary explanations.



UNITED STATES CHIEF MAGISTRATE JUDGE